

Adopted

Rejected

COMMITTEE REPORT

YES: 21

NO: 0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1140, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between line 1 and the enacting clause, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-1.1-4-12 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]:
- 5 Sec. 12. (a) As used in this section, "land developer" means a
- 6 person that holds land for sale in the ordinary course of the
- 7 person's trade or business.
- 8 (b) As used in this section, "land in inventory" means:
- 9 (1) a lot; or
- 10 (2) a tract that has not been subdivided into lots;
- 11 to which a land developer holds title in the ordinary course of the
- 12 land developer's trade or business.
- 13 (c) As used in this section, "title" refers to legal or equitable
- 14 title, including the interest of a contract purchaser.
- 15 (d) Except as provided in subsections (h) and (i), if:
- 16 (1) land assessed on an acreage basis is subdivided into lots; ~~the~~

1 ~~land shall be reassessed on the basis of lots. If or~~

2 **(2) land is rezoned for, or put to, a different use;**

3 the land shall be reassessed on the basis of its new classification.

4 **(e) If improvements are added to real property, the improvements**
5 **shall be assessed.**

6 **(f) An assessment or reassessment made under this section is**
7 **effective on the next assessment date. However, if land assessed on an**
8 **acreage basis is subdivided into lots, the lots may not be reassessed**
9 **until the next assessment date following a transaction which results in**
10 **a change in legal or equitable title to that lot.**

11 **(g) No petition to the department of local government finance is**
12 **necessary with respect to an assessment or reassessment made under**
13 **this section.**

14 **(h) Subject to subsection (i), land in inventory may not be**
15 **reassessed until the next assessment date following the earliest of:**

16 **(1) the date on which title to the land is transferred by:**

17 **(A) the land developer; or**

18 **(B) a successor land developer that acquires title to the**
19 **land;**

20 **to a person that is not a land developer;**

21 **(2) the date on which construction of a structure begins on the**
22 **land; or**

23 **(3) the date on which a building permit is issued for**
24 **construction of a building or structure on the land.**

25 **(i) Subsection (h) applies regardless of whether the land in**
26 **inventory is rezoned while a land developer holds title to the land."**

27 Page 5, between lines 5 and 6, begin a new paragraph and insert:

28 "SECTION 3. IC 6-1.1-22-9.5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section
30 applies only to property taxes first due and payable in a year that begins
31 after December 31, 2003:

32 **(1) with respect to a homestead (as defined in IC 6-1.1-20.9-1);**
33 **and**

34 **(2) that are not payable in one (1) installment under section 9(b)**
35 **of this chapter.**

36 **(b) At any time before the mailing or transmission of tax statements**
37 **for a year under section 8 of this chapter, a county may petition the**
38 **department of local government finance to establish a schedule of**

1 installments for the payment of property taxes with respect to:

- 2 (1) real property that are based on the assessment of the property
 3 in the immediately preceding year; or
 4 (2) a mobile home or manufactured home that is not assessed as
 5 real property that are based on the assessment of the property in
 6 the current year.

7 The county fiscal body (as defined in IC 36-1-2-6) ~~the county auditor;~~
 8 ~~and the county treasurer~~ must approve a petition under this subsection.

9 (c) The department of local government finance:

10 (1) may not establish a date for:

- 11 (A) an installment payment that is earlier than May 10 of the
 12 year in which the tax statement is mailed or transmitted;
 13 (B) the first installment payment that is later than November
 14 10 of the year in which the tax statement is mailed or
 15 transmitted; or
 16 (C) the last installment payment that is later than May 10 of the
 17 year immediately following the year in which the tax statement
 18 is mailed or transmitted; and

19 (2) shall:

- 20 (A) prescribe the form of the petition under subsection (b);
 21 (B) determine the information required on the form; and
 22 (C) notify the county fiscal body, the county auditor, and the
 23 county treasurer of the department's determination on the
 24 petition not later than twenty (20) days after receiving the
 25 petition.

26 (d) Revenue from property taxes paid under this section in the year
 27 immediately following the year in which the tax statement is mailed or
 28 transmitted under section 8 of this chapter:

29 (1) is not considered in the determination of a levy excess under
 30 IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the
 31 property taxes are paid; and

32 (2) may be:

- 33 (A) used to repay temporary loans entered into by a political
 34 subdivision for; and
 35 (B) expended for any other reason by a political subdivision in
 36 the year the revenue is received under an appropriation from;
 37 the year in which the tax statement is mailed or transmitted under
 38 section 8 of this chapter.

SECTION 4. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) Except as provided in section 10.5 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty ~~equal to ten percent (10%) of the amount of delinquent taxes~~ shall be added to the unpaid portion in the year of the initial delinquency. **The penalty is equal to an amount determined as follows:**

(1) If:

(A) an installment of property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal

1 holiday recognized by the federal government, or a statewide holiday,
 2 the act that must be performed by that date is timely if performed by the
 3 next succeeding day that is not a Saturday, a Sunday, or one (1) of
 4 those holidays.

5 (f) A payment to the county treasurer is considered to have been
 6 paid by the due date if the payment is:

7 (1) received on or before the due date to the county treasurer or a
 8 collecting agent appointed by the county treasurer;

9 (2) deposited in the United States mail:

10 (A) properly addressed to the principal office of the county
 11 treasurer;

12 (B) with sufficient postage; and

13 (C) certified or postmarked by the United States Postal Service
 14 as mailed on or before the due date; or

15 (3) deposited with a nationally recognized express parcel carrier
 16 and is:

17 (A) properly addressed to the principal office of the county
 18 treasurer; and

19 (B) verified by the express parcel carrier as:

20 (i) paid in full for final delivery; and

21 (ii) received on or before the due date.

22 For purposes of this subsection, "postmarked" does not mean the date
 23 printed by a postage meter that affixes postage to the envelope or
 24 package containing a payment."

25 Page 5, between lines 18 and 19, begin a new paragraph and insert:

26 "SECTION 6. IC 14-33-10-3 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) An assessment
 28 not paid in full shall be paid in annual installments over the time
 29 commensurate with the term of the bond issue or other financing
 30 determined by resolution adopted by the board. Interest shall be
 31 charged on the unpaid balance at the same rate per year as the penalty
 32 charged on delinquent property tax payments under ~~IC 6-1.1-37-10~~.
 33 **IC 6-1.1-37-10(a)**. All payments of installments, interest, and penalties
 34 shall be entered on the assessment roll in the office of the district.

35 (b) Upon payment in full of the assessment, including interest and
 36 penalties, the board shall have the lien released and satisfied on the
 37 records in the office of the recorder of the county in which the real
 38 property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

SECTION 7. IC 36-9-36-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)** per year from the date of the final acceptance of the completed improvement by the works board.

SECTION 8. IC 36-9-36-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)**.

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

SECTION 9. IC 36-9-37-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

- (1) Be mailed not more than sixty (60) days after the default.
- (2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half ($\frac{1}{2}$) the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)**.
- (3) State that the amount of the default, plus interest, is due by the date determined as follows:

1 (A) If the person selected monthly installments under
 2 ~~IC 36-9-37-8.5(a)(1)~~, **section 8.5(a)(2) of this chapter**, within
 3 sixty (60) days after the date the notice is mailed.

4 (B) If the person selected annual installments under
 5 ~~IC 36-9-37-8.5(a)(2)~~, **section 8.5(a)(1) of this chapter**, within
 6 six (6) months after the date the notice is mailed.

7 (b) A notice that is mailed to the person in whose name the property
 8 is assessed and addressed to the person within the municipality is
 9 sufficient notice. However, the fiscal officer shall also attempt to
 10 determine the name and address of the current owner of the property
 11 and send a similar notice to the current owner.

12 (c) Failure to send the notice required by this section does not
 13 preclude or otherwise affect the following:

14 (1) The sale of the property for delinquency as prescribed by
 15 IC 6-1.1-24.

16 (2) The foreclosure of the assessment lien by the bondholder.

17 (3) The preservation of the assessment lien under section 22.5 of
 18 this chapter.

19 SECTION 10. IC 36-9-37-20 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 20. (a) If any principal
 21 and interest, or an installment of principal and interest, is not paid in
 22 full when due, the municipal fiscal officer shall enforce payment of the
 23 following:

24 (1) The unpaid amount of principal and interest.

25 (2) A penalty of interest at the rate prescribed by subsection (b).

26 (b) If payment is made after a default, the municipal fiscal officer
 27 shall also collect a penalty of interest on the delinquent amount at
 28 one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)**
 29 for each six (6) month period, or fraction of a six (6) month period,
 30 from the date when payment should have been made.

31 SECTION 11. [EFFECTIVE JANUARY 1, 2006
 32 (RETROACTIVE)] **IC 6-1.1-4-12, as amended by this act, applies**
 33 **only to assessment dates after December 31, 2005.**

34 SECTION 12. [EFFECTIVE JULY 1, 2006] **IC 6-1.1-37-10, as**
 35 **amended by this act, applies only to ad valorem property taxes first**
 36 **due and payable after December 31, 2006.**

37 SECTION 13. [EFFECTIVE UPON PASSAGE] (a) **The**
 38 **definitions in IC 6-1.1-12 apply throughout this SECTION.**

1 (b) As used in this SECTION, "department" refers to the
2 department of local government finance.

3 (c) As used in this SECTION, "taxpayer" means a person:

- 4 (1) who operates a grey iron foundry located in Grant County;
- 5 (2) who applied in 2001 for property tax deductions under
- 6 IC 6-1.1-12.1 for new manufacturing equipment located in an
- 7 economic revitalization area; and
- 8 (3) whose applications described in subdivision (2) were
- 9 denied.

10 (d) References to the Indiana Code in this SECTION refer to the
11 Indiana Code in effect on March 1, 2001, unless otherwise stated.

12 (e) Notwithstanding any other law, a taxpayer who complies
13 with the requirements of this SECTION is entitled to the property
14 tax deduction for new manufacturing equipment in the amounts
15 and for the number of years provided under IC 6-1.1-12.1-4.5, as
16 determined by the department under subsection (h).

17 (f) The taxpayer shall provide the department with copies of the
18 taxpayer's:

- 19 (1) statement of benefits; and
- 20 (2) applications for deductions from assessed value;

21 for new manufacturing equipment placed in service in an economic
22 revitalization area that the taxpayer filed in 2001.

23 (g) If there are any deficiencies in the taxpayer's filings
24 described in subsection (e), the department of local government
25 finance shall assist the taxpayer in completing the information
26 necessary to determine:

- 27 (1) the assessed value of the new manufacturing equipment;
- 28 and
- 29 (2) the number of years over which the taxpayer is entitled to
- 30 the deduction under this SECTION.

31 (h) The department shall determine:

- 32 (1) the amount of the assessed value of the new manufacturing
- 33 equipment;
- 34 (2) the number of years over which the taxpayer is entitled to
- 35 the deduction under this SECTION; and
- 36 (3) the percentages used to compute the taxpayer's
- 37 deductions;

38 in accordance with IC 6-1.1-12.1-4.5(d) and IC 6-1.1-12.1-4.5(e) as

1 if the taxpayer's had been approved in 2001.

2 (i) Notwithstanding IC 6-1.1-26 (as in effect on January 1, 2006),
3 when the department has completed the department's
4 determinations under subsection (h), the department shall issue an
5 order to the county auditor of the county in which the economic
6 revitalization area is located:

7 (1) describing the department's determinations under
8 subsection (h); and

9 (2) requiring the county auditor to accept the taxpayer's
10 refund claims as if the taxpayer's deduction application had
11 been approved in 2001.

12 The taxpayer shall provide the taxpayer with a copy of the order
13 issued under this subsection.

14 (j) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006),
15 the taxpayer may file refund claims for property taxes paid in
16 previous years that are affected by the department's order issued
17 under subsection (i). The taxpayer must attach a copy of the order
18 issued under subsection (i) to the taxpayer's refund claim.

19 (k) Notwithstanding IC 6-1.1-26 (as in effect January 1, 2006),
20 the county auditor shall pay the refund claims of the taxpayer filed
21 under subsection (j) if the refund claims are fully consistent with
22 the department's order issued under subsection (i).

23 SECTION 14. [EFFECTIVE UPON PASSAGE] (a) This
24 SECTION applies to property that:

25 (1) is used for a fraternity for students attending Butler
26 University;

27 (2) is owned by a nonprofit corporation that was, before the
28 effective date of this SECTION, determined by the auditor of
29 the county in which the property is located to be eligible to
30 receive a property tax exemption under IC 6-1.1-10-16 or
31 IC 6-1.1-10-24; and

32 (3) is not eligible for the property tax exemption under
33 IC 6-1.1-10-16 or IC 6-1.1-10-24 for property taxes first due
34 and payable in 2001, 2002, 2003, and 2004 because the
35 nonprofit corporation failed to timely file an application
36 under IC 6-1.1-11-3.5.

37 (b) Notwithstanding IC 6-1.1-11-1 and IC 6-1.1-11-3.5, the
38 auditor of the county in which the property described in subsection

1 (a) is located shall:

2 (1) waive the noncompliance with the timely filing
3 requirement for the exemption application in question; and

4 (2) grant the appropriate exemption.

5 (c) A property tax exemption granted under this SECTION
6 applies to:

7 (1) property taxes first due and payable in 2001;

8 (2) property taxes first due and payable in 2002;

9 (3) property taxes first due and payable in 2003; and

10 (4) property taxes first due and payable in 2004.

11 (d) This SECTION expires July 1, 2007.

12 SECTION 15. P.L.228-2005, SECTION 35, IS AMENDED TO
13 READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION
14 35. (a) The definitions in IC 6-1.1-1 apply throughout this SECTION.

15 (b) As used in this SECTION, "taxpayer" means a nonprofit
16 corporation that is an owner of land and improvements:

17 (1) that were:

18 (A) owned and occupied by the taxpayer during the period
19 preceding the assessment date in 1999 and continuing through
20 the date that this SECTION is effective; and

21 (B) used to prepare and create a soccer facility to provide
22 youths with the opportunity to play supervised and organized
23 soccer against other youths;

24 (2) for which the property tax liability imposed for property taxes
25 first due and payable in 2000, 2001, 2002, 2003, and 2004
26 exceeded ~~thirty-three~~ **thirty** thousand dollars (~~\$33,000~~) (**\$30,000**),
27 in total, which has been paid by the taxpayer;

28 (3) that would have qualified for an exemption under IC 6-1.1-10
29 from property taxes first due and payable in 2000, 2001, 2002,
30 2003, and 2004 if the taxpayer had complied with the filing
31 requirements for the exemption in a timely manner; and

32 (4) that have been granted an exemption under IC 6-1.1-10 from
33 property taxes first due and payable in 2005.

34 (c) Land and improvements described in subsection (b) are exempt
35 under IC 6-1.1-10-16 from property taxes first due and payable in 2003
36 and 2004, notwithstanding that the taxpayer failed to make a timely
37 application for the exemption for those years.

38 (d) The taxpayer may file claims with the county auditor for a refund

1 for the amounts paid toward property taxes on land and improvements
2 described in subsection (b) that were billed to the taxpayer for property
3 taxes first due and payable in 2003 and 2004. The claims must be filed
4 as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims
5 must present sufficient facts for the county auditor to determine
6 whether the claimant is a person that meets the qualifications described
7 in subsection (b) and the amount that should be refunded to the
8 taxpayer.

9 (e) Upon receiving a claim filed under this SECTION, the county
10 auditor shall determine whether the claim is correct. If the county
11 auditor determines that the claim is correct, the county auditor shall
12 submit the claim under IC 6-1.1-26-4 to the county board of
13 commissioners for review. The only grounds for disallowing the claim
14 under IC 6-1.1-26-4 are that the claimant is not a person that meets the
15 qualifications described in subsection (b) or that the amount claimed is
16 not the amount due to the taxpayer. If the claim is allowed, the county
17 auditor shall, without an appropriation being required, issue a warrant
18 to the claimant payable from the county general fund for the amount
19 due the claimant under this SECTION. The amount of the refund must
20 equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5,
21 no interest is payable on the refund.

22 **(f) This SECTION shall be liberally construed in favor of the**
23 **taxpayer to give effect to the purposes of this SECTION.**

- 1 ~~(f)~~ **(g)** This SECTION expires December 31, 2007.".
- 2 Renumber all SECTIONS consecutively.
 (Reference is to HB 1140 as printed January 20, 2006.)

and when so amended that said bill do pass.

Representative Espich